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**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND
(BALTIMORE)**

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MICHAEL O. LIVINGSTONE

Plaintiff

vs.

WALDEN UNIVERSITY, LLC

Defendant

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: Civil Case No: **22-3096-LKG**
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**Plaintiff's pre-motion notice pursuant to § II(A)(2) of Hon. Griggsby's case management
order to file motion for reimbursement of process service costs pursuant to Fed. R. Civ.
Proc. 4(D)(2)(A-B) against Defendant**

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NOTICE IS HEREBY GIVEN in compliance with § II(A)(2) of presiding Honorable Griggsby's case management order (ECF No.18) that Plaintiff Mr. Michael O. Livingstone, *pro se* ("Plaintiff") intends to file a motion for reimbursement of process service costs pursuant to Fed. R. Civ. Proc. 4(D)(2)(A-B) against Defendant Walden University, LLC ("Walden" or "Defendant").

In further compliance with § II(A)(2) of Honorable Griggsby's case management order, Plaintiff states that the parties have electronically met to discuss whether this instant matter can be resolved without a motion. By email dated January 9, 2023 at 8:00 AM (attached Exhibit "A"), Plaintiff reached Patricia L. Bradley, Esquire, who identifies herself as Vice President, Senior Associate In-house General Legal Counsel for Walden University, LLC and its parent company, Adtalem Global Education, Inc. The attached email Exhibit "A" shows that Ms. Bradley declined to respond to confer about this matter.

Plaintiff avers that the parties do not think they can resolve this instant matter without a motion because by email dated Friday, December 23, 2022 at 8:31 AM attached herewith as

Exhibit “B,” Plaintiff contacted defendant’s Ms. Bradley whether defendant would waive process service. By reply email dated Friday December 23, 2022 at 9:30 AM, Ms. Bradley, expressly declined to waive process service without any cause. *See* Exhibit B.

Plaintiff hired a professional process server to serve the summons, amended complaint, and its attachments including the subpoena in this case. Attached Exhibit “C” is the invoice showing paid process service.

In compliance with § II(A)(2) of Honorable Griggsby’s case management order, Plaintiff states that the motion will not be frivolous both as a matter of fact and law because the U.S. Supreme Court defines frivolous actions or proceedings as one that lacks an “arguable basis either in law or in fact.” *See Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827, 104 L.Ed.2d 338 (1989)). First, the motion will not be frivolous as a matter of fact because the attached record speaks for itself that Plaintiff hired a process server to serve the summons and complaint after defendant expressly refused to waive process service. Second, the motion will not be frivolous as a matter of law because Federal Rules of Civil Procedure 4(D)(2)(A-B) provides the following in pertinent part:

(2) Failure to Waive. If a defendant located within the United States fails, without good cause, to sign and return a waiver requested by a plaintiff located within the United States, the court must impose on the defendant:

(A) the expenses later incurred in making service; and (B) the reasonable expenses, including attorney’s fees, of any motion required to collect those service expenses.

Conclusion

Defendant expressly declined waive process service; Plaintiff hired a professional process server to execute process service; Defendant should be enjoined to pay the costs of process service and the costs of bringing the motion and this notice for a total \$1018.00 as follows:

1. \$218 for professional process service (Exhibit C)

2. \$600 as miscellaneous expenses for Plaintiff's time expended to bring this notice and motion, paper, printing, editing, researching the law, emailing, submission to court for filing.

Respectfully submitted,



s/Michael O. Livingstone, *pro se*
P.O. Box 34246
Philadelphia, Pennsylvania 19101
Telephone: 856-676-6951
Email: mikeliving40@gmail.com

Dated: January 13, 2023

Certificate of Service by Fed. R. Civ. Proc. 5

I, Michael O. Livingstone hereby state that around January 13, 2023, I presented the foregoing to this Court for filing and by Fed. R. Civ. Proc. 5's applicability to Attorney ECF filers, I caused the same to be electronically served upon Defendant's Attorneys of record as follows:

Chris Bayh, Esquire
Barnes & Thornburg LLP
Email: Chris.Bayh@btlaw.com

&

Erinn Maguire, Esquire
Lawrence Law, LLC
Email: erinn@lawrencelawllc.com

Respectfully Submitted,



Michael O. Livingstone, *pro se*
P.O. Box 34246
Philadelphia, Pennsylvania 19101.
Email: mikeliving40@gmail.com
Telephone: 856-676-6951

Dated: January 13, 2023